

# HOUSE . . . . . No. 2113

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By Mr. Wagner of Chicopee, petition of Joseph F. Wagner relative to terminal audits for commercial vehicles. Transportation.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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### AN ACT RELATIVE TO TERMINAL AUDITS FOR COMMERCIAL VEHICLES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 90 of the General Laws, as appearing in the 2002 Offi-  
2 cial Edition, is hereby amended by inserting after section 19J, as  
1 so appearing, the following section:—

2 Section 19K. (a) The registrar shall promulgate rules and regu-  
3 lations to ensure compliance by all interstate and intrastate motor  
4 carriers with this chapter and with:

5 (1) the regulations of the United States Department of Trans-  
6 portation, Federal Motor Carrier Safety Administration, contained  
7 in Title 49 of the Code of Federal Regulations relative to:

- 8 (i) proof of financial responsibility;  
9 (ii) driver qualification files (including all required forms);  
10 (iii) drug and alcohol testing records as applicable;  
11 (iv) records of duty status and supporting documents;  
12 (v) driver vehicle inspection reports and maintenance records;  
13 (vi) hazardous materials records as applicable; and  
14 (vii) an accident register and copies of all accident reports  
15 required by state or other governmental entities or insurers.

16 (2) sections 2, 3, 9 and 10 relative to operator licensing and  
17 registration of commercial vehicles;

18 (3) section 2B of chapter 85, section 31 of chapter 90, and any  
19 regulation established thereunder relative to transportation of  
20 freight, passengers or hazardous materials;

21 (4) chapter 90F, relative to the operation of commercial vehi-  
22 cles; and

23 (5) any other applicable state statute pertaining to the operation  
24 of commercial motor vehicles.

25 (b) The department of state police may enter, during regular  
26 business hours, the commercial premises owned or leased by a  
27 commercial carrier, wherein the records, required to be maintained  
28 under the regulations established under this section, are stored or  
29 maintained and inspect, in a reasonable manner, the records for  
30 the purpose of enforcing the regulations. If the records contain  
31 evidence of violations of the regulations, the inspecting officer  
32 shall produce and take possession of copies of the records, and in  
33 the event that the entity subject to inspection does not possess  
34 copying equipment, the inspecting officer shall arrange to have  
35 copied, in a reasonable time and manner, the records that contain  
36 evidence of the violations, and the costs for the copying shall be  
37 assessed against the owner of said records. The department of  
38 state police shall coordinate its activities under this section with  
39 the federal motor carrier safety administration to ensure compli-  
40 ance with all federal and state laws and regulations. Municipal  
41 police officers or municipal police departments shall not conduct  
42 terminal audits; routine commercial carrier inspections; or,  
43 without probable cause, a random inspection of a commercial car-  
44 rier.

45 (c) Any carrier found to be in violation of regulations estab-  
46 lished under this section shall be subject to a civil penalty not to  
47 exceed \$500 for each offense, and each day of a violation shall  
48 constitute a separate offense; provided, however, that the total of  
49 all civil penalties assessed against a violator for all offenses  
50 relating to any single violation shall not exceed \$2,500. If it is  
51 found that a serious pattern of safety violations, other than record  
52 keeping requirements, exists or has occurred, a civil penalty not to  
53 exceed \$1,000 may be imposed for each offense; provided, how-  
54 ever, that the maximum fine for each such pattern of safety viola-  
55 tions shall not exceed \$10,000. If it is found that a substantial  
56 health or safety violation exists or has occurred which could rea-  
57 sonably lead to, or has resulted in, serious personal injury or  
58 death, a civil penalty not to exceed \$10,000 for each offense may  
59 be imposed. With the exception of record keeping violations and

60 violations of chapter 90F or such other regulations established  
61 under this section relating to commercial driver's licenses, as  
62 defined in section 1 of chapter 90F, no civil penalty shall be  
63 imposed under this section against an employee of a motor carrier  
64 for a violation unless the employee's conduct is found to consti-  
65 tute gross negligence or reckless disregard for safety, in which  
66 case the employee shall be subject to a civil penalty not to exceed  
67 \$1,000. A person found to have committed an act in violation of  
68 chapter 90F or regulations established under this section relating  
69 to commercial driver's licenses shall be subject to a civil penalty  
70 not to exceed \$2,500 for each offense.

71 (d) The amount of any civil penalty, and a reasonable time for  
72 abatement of the violation, shall by written order be determined  
73 by a court of competent jurisdiction, and all penalties so recovered  
74 shall be paid to the Highway Fund of the commonwealth.